

REMARKS

The claims have been amended in accordance with the approach kindly suggested by the Examiner at the interview. First, any reference to “non-interfering substituents” has been replaced by a description of that substituent from either the specification or a dependent claim. Thus, the definition of R¹ is inserted from claim 32; the definition of R⁶ is inserted from claim 35; the definition of R⁸ is inserted from page 10, lines 23-24; the definition of R³ is inserted from claim 26; the definition of R⁴ from claim 32, and the non-interfering substituents on the aryl group “Ar” from claim 18. Thus, no new matter is added by these substituents. The claims from which the definitions have been drawn have been canceled as redundant.

The Office specifically objected to defining “R” as it occurs in some substituents as including heteroalkyl, i.e. “forms thereof containing 1-2 O, S, and/or N atoms.” Because certain embodiments of R² and R⁷ would not be included if the heteroalkyl forms of R were not included, a narrower form of “heteroalkyl” (the inclusion of which in R was originally supported in the specification, for example, on page 7, lines 22-24, line 29 on that page, lines 21-22 on page 8 and in many other locations) is now set forth in the claims. Heteroalkyl is defined on page 6, lines 2-3, but because this definition is objected to, the proposed amendment simply narrows the definition to the exemplified embodiments. When two R contained on the same nitrogen atom can form a ring, and the rings actually formed include piperazine and morpholine rings, one of the R substituents must have a heteroatom in order to achieve this. To simplify this, as the Examiner has suggested, a Markush group is created of the rings actually formed rather than referring to the possibility that R may be heteroalkyl. Thus, the rings that may be formed include piperazine rings as exemplified, for example, in compounds 3, 7, 8-11, 26 and several others; morpholine rings as exemplified in compounds 13, 23, 34 and several others, thiazolidine as exemplified in compound 104, oxazolidine

as exemplified in compound 106, pyrrolidine as exemplified in compounds 82 and 84; piperidine as exemplified in compound 109; azacyclopropane as seen in compound 87, azacyclobutane as shown in compound 74, and azacyclooctane as shown in compound 88.

Similarly, certain embodiments of R^7 were not included if the possibility of heteroalkyl is deleted from the definition of R. To remedy this, the exemplified excluded compounds are included in a Markush group: methoxymethyl as shown in compounds 43, 51, 61-63, 70 and 92; methoxyethyl as shown in compound 76; ethoxymethyl as shown in compound 95; benzyloxymethyl as shown in compound 94, and 2-methoxyethyloxymethyl as shown in compound 91.

Thus, the amendment to the claims is fully supported as indicated above.

In reviewing these claims, two obvious errors were also discovered; these have been corrected. The substituent "heteroaryl-NR₂" in the definition of R^2 in the context of the list should clearly have been heteroaryl-NR analogous to heteroaryloxy which immediately precedes it and as exemplified, for example, in compound 73. The obviously erroneous "alkyl-OOR" in the definition of R^1 , R^4 , and as a substituent to aryl, has been corrected to "alkyl-OOCR" as had previously been done for the definition of the substituents on the alkylene or alkenylene represented by L^2 . The corresponding portions of the specification have been amended accordingly. This correction was made in the context of the definition of L^2 in the Response filed 24 November 2003; the amendments herein simply conform this correction in the remaining definitions and specification. The obvious typographical error omitting "not" in the paragraph beginning on page 6 at line 26 has also been corrected.

Turning, now, to the only remaining rejections, both under 35 U.S.C. § 112, second paragraph, the term “non-interfering group” in claim 1 was objected to. This term no longer appears in the amended claims.

Claims 1, 18, 22, 26, 32, 35, 59 and 60 were rejected as indefinite because of the definition of “R,” as including “heteroalkyl” or “alkyl or heteroforms thereof.” The objected-to definition of R has now been removed from the claims. Applicants appreciate the helpfulness of the Examiner in suggesting an amendment to the claims which would permit inclusion of certain important compounds illustrated, even though this preferred definition of one embodiment of R has been deleted. Accordingly, as the Examiner has acknowledged that the remaining claims would be allowable when the § 112 issues with regard to the rejected claims were resolved, it is believed that all currently pending claims are now in a position for allowance. These are claims 1, 5-6, 9, 12, 16-17, 19-21, 23-25, 27-31, 33-34, 36, 39, 42 and 45-84. Applicants respectfully request that these claims be passed to issue. If any question remains, a telephone call to the undersigned would be greatly appreciated.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket No. 219002029000.

Dated: June 3, 2004

Respectfully submitted,

By Kate H. Murashige
Kate H. Murashige
Registration No.: 29,959
MORRISON & FOERSTER LLP
3811 Valley Centre Drive, Suite 500
San Diego, California 92130
(858) 720-5112